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Attorneys for Defendant, Richard Best

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD BEST,

Defendant

Case No.: 1:22-CR-00241-JLT-SKO

**MOTION TO COMPEL GOVERNMENT
TO ISSUE THEIR SUBPOENAS FOR
CURRENT AND FORMER ADM
EMPLOYEES JOINTLY FOR THE
PROSECUTION AND DEFENSE**

ARGUMENT AND LAW

This case is unusual in that most of the witnesses necessary for the trial for the prosecution and defense are scattered throughout the country. The Government has entered into a plea agreement with the co-defendant, Shawn Sawa, that includes a cooperation agreement. Mr. Sawa resides in Canada. As set forth in the Declaration of Jeffrey T. Hammerschmidt, served and filed herewith, the prosecution has stated that they are in the process of serving Mr. Sawa with a subpoena, but they declined the request to serve Mr. Sawa jointly as a prosecution and defense witness. Mr. Hammerschmidt is appointed counsel, which requires the U.S. Marshal to serve defense subpoenas. In *Washington v Texas* the United States Supreme Court stated the Sixth Amendment to the United States Constitution guarantees a criminal the right “to have compulsory process for obtaining witnesses in his favor.” (388 U.S. 14, 18-19 (1967))

1 Michael Mardersosian was lead counsel in Richard Best's civil lawsuit against ADM,
2 which arose out of the same set of facts on which the criminal case is alleged. ADM countersued.
3 The civil case resolved on confidential terms. Without revealing details, the civil case settled
4 unfavorably for ADM. As set forth in Mr. Hammerschmidt's declaration, it is unclear whether
5 ADM will be cooperative with service of defense subpoenas. Requiring the Government to serve
6 all ADM employees and former employees as joint witnesses for the prosecution and defense
7 will save government resources and will impose no additional burden on the Government. It will
8 also reduce the likelihood that the defense will request a continuance based upon being unable to
9 locate and serve necessary witnesses. In addition, as set forth in Mr. Hammerschmidt's
10 declaration, even if the defense was able to legally serve Mr. Sawa as a witness, the defense does
11 not believe Mr. Sawa will be able to cross the border without the Government's assistance.

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13 Dated: September 23, 2025

Respectfully submitted,

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15 s/Jeffrey T. Hammerschmidt
16 JEFFREY T. HAMMERSCHMIDT
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